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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,931	09/16/2003	John Higgins	03-029-JH	2331
7590 01/10/2005 Melissa Patangia, ESQ. Lambert and Associates 92 State Street Boston, MA 02109			EXAMINER BUI, LUAN KIM	
			ART UNIT 3728	PAPER NUMBER

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

**Office Action Summary****Application No.**

10/663,931

**Applicant(s)**

HIGGINS, JOHN

**Examiner**

Luan K Bui

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/16/03</u> . | 6) <input type="checkbox"/> Other: ____  |

***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the perforated on one side of each of the separate sealed cavities for detachment as recited in claims 3 and 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrase "including at least one sealed cavity located on the top surface" is vague and indefinite because it appears that the top surface does not have a sealed cavity instead of an open cavity. The phrase "said writing" in claims 14 and 15 lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1, 2, 4-8, 10, 11 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Bartell et al. (4,889,236; hereinafter Bartell'236). To the extent that the Examiner can determine the scope of the claims, Bartell'236 discloses a rigid credit card style blister carrier having the peripheral dimensions of a credit card/wallet pill card comprising a card (10) having a top surface (100, 200) and a bottom surface (400) having writing (20) and the card including at least one sealed cavity (30) located on the top surface at the perimeter edge of the card. As to claims 5-8, the sealed cavity of Bartell'236 is inherently capable to contain aspirin or Viagra or Livitra or a tube of medicament. As to claims 10-11, Bartell'236 discloses the carrier having the peripheral dimensions of a credit card (column 1, lines 66-68) which is considered equivalent to the width and the height of a credit card as claimed.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartell et al. (4,889,236; hereinafter Bartell'236) in view of Wick (5,014,851). Bartell'236 discloses the rigid credit card style blister carrier as above having all the limitations of the claims except for the card being perforated on one side of each of the separate sealed cavities for detachment. Wick shows a package assembly for medications comprising a carrier (10) having a plurality of separate sealed cavities (23) and the carrier having perforated (15, 24) on one side of each of the separate sealed cavities for detachment. It would have been obvious to one having ordinary skill in the art in view of Wick to modify the card of Bartell'236 so the card is perforated on one side of each of the separate sealed cavities to facilitate detachment the sealed cavity from the card.

8. Claims 12-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartell et al. (4,889,236; hereinafter Bartell'236) in view of Mattis et al. (2002/0066690; hereinafter Mattis'690) and Robertson (6,516,950). Bartell'236 discloses the rigid credit card style blister carrier as above having all the limitations of the claims except for the card comprises a thickness thinner or the same thickness as a credit card. Mattis'690 suggests a pill case (10) having the dimensions approximately of a credit card so that the case may be readily transported and carried in a wallet or billfold. Robertson teaches a credit card-sized carrier (10) having a

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length and width of substantially no greater than a standard credit card and a thickness is substantially no greater than about two or three times of the standard credit card so the carrier may be readily transported in a pocket or wallet. Robertson further teaches the carrier having indicia (72) such as information about the user or instructions relating to the enclosed drug for example aspirin for use of a heart attack. It would have been obvious to one having ordinary skill in the art in view of Mattis'690 and Robertson to modify the card of Bartell'236 so the card having the same thickness as a credit card to facilitate carrying in a wallet since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Marilyn Watts at (571) 272-4398.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb  
January 6, 2005



Luan K. Bui  
Primary Examiner